

### REMARKS

We have amended claims 1, 3 and 7-10 and have cancelled dependent claim 6. The foregoing amendments are supported by the specification at page 20, line 35 to page 21, line 14.

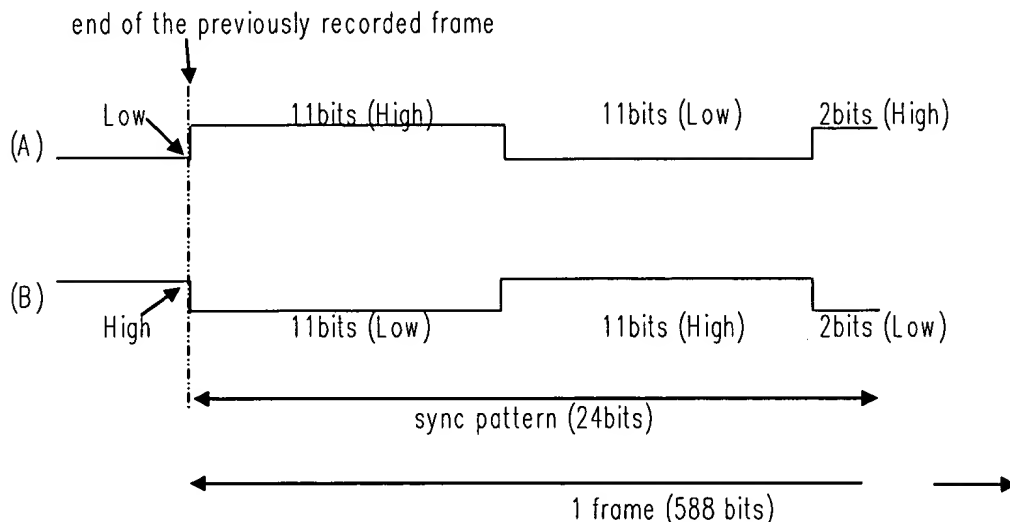
#### Prior Art Rejections

The Examiner rejected claims 1-5 and 7-10 under 35 U.S.C. §103(a) as being obvious over Tsukihashi / EP0974966 (see paragraph 5 of the Office Action). As acknowledged by the Examiner, this reference is prior art only under 35 U.S. §102(e). The Examiner suggests that for applications filed after November 29, 1999, such a rejection may be overcome if the subject matter of the reference and the claimed invention was, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Applicants are attaching herewith a copy of the recorded assignment for this application which shows that the instant application was assigned to the same entity as the Tsukihashi / EP0974966 reference. We ask therefore that this rejection be withdrawn.

The Examiner also rejected claims 1, 2, 7, 8 and 10 as being unpatentable over JP2842262 further considered with the acknowledged prior art with respect to the sync pattern. (see paragraph 5 of the Office Action). We submit however that JP2842262 does not disclose interrupting data recording at a timing in which the laser beam is continuously generated at a low power level, as recited in independent claims 1, 7, 8, and 10, as amended. Rather, JP2842262 discloses interrupting data recording at a timing in which data recording of the currently recording unit (packet) ends when the buffer memory is in a state in which buffer underrun may occur.

In a CD-R medium, a 24-bits sync pattern data is added to each head of recording unit (frame). The pattern of the 24-bits sync pattern data varies in accordance with the end level of the previously recorded frame. More specifically, the 24-bits sync pattern data has one of the following illustrated two patterns (A) and (B). When the end level of the previously recorded frame is low, the 24-bits sync pattern data has a pattern (A). When the end level of the previously recorded frame is high, the 24-bits sync pattern data has a pattern (B). Thus, in the

operation of JP2842262, data recording may be interrupted when the laser beam is generated at a high power level



Because claim 2 depends from independent claim 1, claim 2 is patentable for at least the same reason that claim 1 is patentable.

- The Examiner also rejected independent claims 3 and 9 as being unpatentable over
- JP2000-40302 further considered with either Yamasaki et al and Yoshikawa, or alternatively with Yokota.

JP2000-40302 is a Japanese counterpart application of Tsukihashi / EP0974966. Thus, at the time the invention was made, both the instant application and the JP2000-40302 reference were both owned by SANYO ELECTRIC CO., LTD. and are currently owned by SANYO ELECTRIC CO., LTD. Therefore, Tsukihashi / EP0974966 references are not prior art of 35 U.S.C. 103(a).

In paragraph 8 of the Office Action, the Examiner notes that reliance on the Tsukihashi / EP0974966 reference is being maintained because the applicant has not perfected his priority papers. Applicant is in the process of providing English translations of the Japanese priority documents, JP11-331419 and JP2000-322550 and will forward them to the Examiner shortly.

Applicant : Koji Hayashi  
Serial No. : 09/717,771  
Filed : November 21, 2000  
Page : 9 of 9

Attorney's Docket No.: 10449-  
028001 / P1P2000217US


The Examiner also rejected claims 3 and 9 under 35 U.S.C. 103(a) as being unpatentable over JP10-63433/Kuroda et al further considered with either Yamasaki et al and Yoshikawa, or alternatively with Takasugi (see paragraph 10 of the office action). We submit that none of Yamasaki, Yoshikawa, or Takasugi disclose or suggest preventing buffer underrun error. Therefore, a person skilled in the art would not combine one of these references with a reference relating to preventing buffer underrun error.

Yamasaki, Yoshikawa, or Takasugi indeed disclose interruption of data recording when an abnormal condition is detected. A person skilled in the art normally wishes to interrupt data recording as soon as an abnormal condition is detected. We submit therefore that there is no support for why a person skilled in the art would modify the system disclosed in JP10-63433/Kuroda with the teachings of Yamasaki, Yoshikawa, or Takasugi and Kuroda.

Enclosed is a Petition for One-Month Extension of Time and a check for \$110.00 for the required fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: February 9, 2004

  
Frank R. Occhiuti  
Reg. No. 35,306

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906